

Tuesday, July 26, 2011

State starts implementing 'Amazon tax'

By JAN NORMAN

The state Board of Equalization is moving ahead with implementing the state's new tax on Internet purchases even though two members voted no because they believe the law is unconstitutional.

The law requires out-of-state online retailers that have California-based websites as affiliates to collect sales tax from California buyers. As soon as Gov. Jerry Brown signed the measure into law June 28, [Amazon and dozens of other online retailers ended their affiliate programs with California websites.](#)



The law also says Amazon must collect sales tax because it has subsidiaries in California. Amazon is not collecting sales tax on purchases by California retailers.

Amazon has since launched a referendum to repeal the law.

In a 3-2 vote July 26, the board started implementing the law and told staff to get an opinion from the state attorney general about the impact of the referendum process.

"I oppose the drive to increase tax collections through a potentially illegal scheme that requires out-of-state retailers to collect California's sales tax," said Michelle Steel, who represents Orange County on the board and who voted against implementation. "The implementation process should be put on hold until we have a clear picture of where the referendum to overturn this law is headed."

[Here's how the affiliate programs work.](#)

Major retailers like Walmart and Target, which have both brick-and-mortar stores and websites, favor the law as does the California Retailers Association, which say online retailers have an unfair pricing advantage if they don't have to collect sales tax, which ranges from 7.25% to 9.25% depending on the city or county. It is 7.75% throughout Orange County.

However, Board of Equalization Chairman Jerome E. Horton said that Amazon may not be required to collect some of the sales tax, which will still give it a pricing advantage.

California's sales tax is charged on the state and district level.

The law requires out-of-state Internet retailers to collect the state portion but not the district portion levied by counties and cities, Horton said.

He gave the example of Inglewood, where the total sales tax rate is 9.25%. If the out-Of-state online retailer is not "engaged in business" in Inglewood or Los Angeles County, it must collect 7.25% not 9.25%, which Inglewood retailers must collect.

"This gives the out-of-state retailer a 2% tax advantage and allows it to appear to sell (its) products for 2% less than the Inglewood store," according to Horton's press release.